

Message Text

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ACTION EUR-12

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INFO AMEMBASSY BONN
USMISSION USBERLIN
AMCONSUL BREMEN
AMCONSUL DUSSELDORF
AMCONSUL FRANKFURT
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UNCLAS STUTTGART 466

E. O. 11652: N/A
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SUBJ: BAADER-MEINHOF TRIAL GIVES FRG ANOTHER BUGGING "SCANDAL"

REF: STUTTGART 118

1. SUMMARY: ON MARCH 17, BADEN-WUERTTEMBERG MINISTER OF INTER-
IOR SCHIESS (CDU) AND JUSTICE MINISTER BENDER (CDU) ADMITTED
BEFORE THE PRESS THAT ON TWO OCCASIONS, LISTENING DEVICES HAD
BEEN USED FOR A TOTAL OF 22 DAYS IN CELLS OF BAADER-MEINHOF
ANARCHISTS IN STUTTGART PRISON TO MONITOR TALKS BETWEEN PRIS-
ONERS AND THEIR LAWYERS. MINISTERS JUSTIFIED THEIR FIRST
ACTION BY NOTING EXTRAORDINARY CIRCUMSTANCES PREVAILING AFTER
ATTACK ON STOCKHOLM GERMAN EMBASSY AND, SECONDLY, AFTER ARREST
OF FUGITIVE DEFENSE LAWYERS SIEGFRIED HAAG AND ROLAND MAYER.
GERMAN TV STATION ARD SPECULATES, FEDERAL INTERIOR MINISTER
MAIHOFFER PRESUMABLY KNEW OF ELECTRONIC SURVEILLANCE, BUT, IF
TRUE THIS INFORMATION DID NOT COME FROM THE BADEN-WUERTTEM-
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BERG MINISTERS. BAADER-MEINHOF TRIAL POSTPONED TILL MARCH 22.
DEFENSE LAWYER SCHILY CONCLUDED THAT WHOLE TRIAL SHOULD BE
DROPPED AS RESULT OF BUGGING. END SUMMARY

2. WITH THE CASE OF ELECTRONIC SURVEILLANCE OF ATOMIC PHYSI-
CIST DR. TRAUBE STILL FRESH IN THE PUBLIC MIND, ANOTHER SPEC-
TACULAR BUGGING CASE BECAME KNOWN IN STUTTGART ON MARCH 17,

THIS TIME IN CONNECTION WITH THE BAADER-MEINHOF TRIAL. THE TWO RESPONSIBLE MINISTERS, BADEN-WUERTTEMBERG INTERIOR MINISTER KARL SCHIESS (CDU) AND JUSTICE MINISTER DR. TRAUGOTT BENDER (CDU), CONFIRMED BEFORE THE PRESS THAT TWICE IN THE PAST TWO YEARS, CONVERSATIONS BETWEEN THE IMPRISONED BAADER-MEINHOF ANARCHISTS AND THEIR LAWYERS HAD BEEN MONITORED FOR ABOUT 10 AND 12 DAYS, RESPECTIVELY. THEY BASED THEIR ACTIONS ON PARAGRAPHS 34 AND 201 OF THE FEDERAL PENAL CODE.

3. THE MINISTERS REPORTED THAT THE ELECTRONIC LISTENING DEVICES HAD BEEN USED THE FIRST TIME ON APRIL 29, 1975, ONE DAY AFTER THE TERRORIST ATTACK ON THE GERMAN EMBASSY IN STOCKHOLM. THE ELECTRONIC SURVEILLANCE REVEALED HINTS ABOUT A PLANNED KIDNAPPING ON A CHILDREN'S PLAYGROUND. THE SECOND TIME WAS IN NOVEMBER, 1976, AFTER THE ARREST OF FUGITIVE DEFENSE LAWYERS SIEGFRIED HAAG AND ROLAND MAYER, AGAIN IN CONNECTION WITH A SUSPECTED KIDNAPPING PLAN. BOTH MINISTERS REMINDED THE PRESS OF THE DANGEROUS SITUATIONS AND THAT MATERIAL FOUND IN CELLS OF ANARCHISTS ALWAYS DEMANDED FOLLOWERS OUTSIDE TO KIDNAP SOMEBODY IN ORDER TO FREE BAADER-MEINHOF PRISONERS. INVOLVEMENT OF DEFENSE LAWYERS IN SUCH CRIMINAL ACTS HAD LONG BEEN SUSPECTED. MINISTERS BELIEVED THEY HAD NO CHOICE BUT TO ACT AS THEY DID IN ORDER "TO AVOID DANGER FOR THE LIFE OF INNOCENT CITIZENS".

4. DEFENSE LAWYER SCHILY USED THE OCCASION TO CALL THE TRIAL NULL AND VOID. HOWEVER, SINCE ALLEGEDLY NO JUDGE OR FEDERAL PROSECUTOR INVOLVED IN THE STAMMHEIM TRIAL WAS INFORMED OF THE SURVEILLANCE ACTION, EITHER DURING OR AFTER IT HAPPENED, UNCLASSIFIED

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STUTTGARTER ZEITUNG CONCLUDED THAT THE TRIAL IS NOT IN DANGER. TRIAL, HOWEVER, RECESSED UNTIL 22 MARCH.

5. COMMENT: COMING ON THE HEELS OF THE "TRAUBE AFFAIR" AND ASIDE FROM ITS NATIONAL AND CONSTITUTIONAL IMPLICATIONS, THE REVELATION THAT CONVERSATIONS BETWEEN BAADER-MEINHOF DEFENDANTS AND THEIR LAWYERS WERE MONITORED COULD HAVE SERIOUS CONSEQUENCES FOR THE CONTINUATION OF THE TRIAL. DESPITE ASSERTIONS THAT NEITHER JUDGES NOR PROSECUTORS KNEW OF THE BUGGING BEFORE OR AFTER IT OCCURRED, DEFENSE LAWYERS HAVE BEEN GIVEN ANOTHER OPPORTUNITY TO CHALLENGE THE CONDUCT OF THE TRIAL AND THUS IMPEDE ITS PROGRESS. IT IS LIKELY THAT THEY WILL MAKE THE MOST OF THIS OPPORTUNITY. ONE OTHER FACTOR COULD ALSO HAVE POTENTIAL SECURITY IMPLICATIONS: THE DEFENDANTS AND THEIR LAWYERS NOW KNOW WHAT CONVERSATIONS HAVE BEEN MONITORED AND THEY MAY HAVE OTHER PLANNED ACTIONS THAT ARE STILL ALIVE. JENKINS

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